

THOMAS A. MARINO  
United States Attorney  
J. JUSTIN BLEWITT, JR.  
Assistant U.S. Attorney  
311 Wm. J. Nealon Federal Building  
Scranton, PA 18501  
Attorneys for Plaintiff  
570-348-2800

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

DONNA WENCH,  
Defendant,  
and

BARNES & NOBLE, INC.,  
Garnishee.

1:CV-00-1414

(Judge Caldwell)

FILED  
SCRANTON

MAR 21 2003

PER h  
DEPUTY CLERK

APPLICATION FOR WRIT  
OF CONTINUING GARNISHMENT

The United States of America, plaintiff, makes application in accordance with 28 U.S.C. § 3205(b)(1) to the Clerk, United States District Court to issue a Writ of Garnishment upon the judgment entered against the Defendant, **Donna Wench**, whose last known address is 19 Park Lane, Pittston, PA 18643, in the above cited action in the amount of \$17,368.35, plus costs and post-judgment interest at the rate of 6.241%, compounded annually. No payments have been credited to the judgment debt, leaving a balance due of \$19,786.52 which includes interest as of March 5, 2003.

Demand for payment of the above-stated debt was made upon the debtor and debtor has failed to satisfy the debt.

The Garnishee is believed to owe or will owe money or property to the judgment debtor, or is in possession of property of the debtor, and said property is a nonexempt interest of the debtor.

The name and address of the Garnishee or his authorized agent is:

BARNES & NOBLE, INC.  
Attn: Francine Charish  
1400 Old Country Road  
Westbury, NY 11590

THOMAS A. MARINO  
United States Attorney

  
J. JUSTIN BLEWITT, JR.  
Assistant U.S. Attorney

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J. JUSTIN BLEWITT, JR.  
Assistant U.S. Attorney  
311 Wm. J. Nealon Federal Building  
Washington & Linden  
Scranton, PA 18501  
Attorneys for Plaintiff  
Phone: 570-348-2800

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

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1:CV-00-1414

PER

DEPUTY CLERK

(Judge Caldwell)

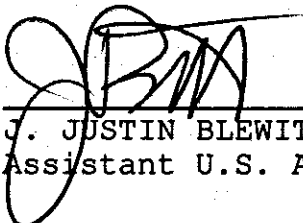
CERTIFICATION OF SERVICE OF DOCUMENTS  
ON JUDGMENT DEBTOR

The United States of America, the judgment creditor herein, hereby certifies that a copy of the Application for Writ of Continuing Garnishment, along with the Notice of Garnishment was sent to the judgment debtor by first-class mail on March 21, 2003, to the last known address of the judgment debtor.

Donna M. Wench  
19 Park Lane  
Pittston, PA 18643

DATE: 3/21/03

THOMAS A. MARINO  
United States Attorney

  
J. JUSTIN BLEWITT, JR.  
Assistant U.S. Attorney

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Scranton, PA 18501  
Attorneys for Plaintiff  
Phone: 570-348-2800

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

FILED  
SCRANTON

MAR 21 2003

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	Judge Caldwell
	)	
v.	)	1:CV-00-1414
	)	
DONNA WENCH,	)	NOTICE OF GARNISHMENT AND
Defendant.	)	<u>INSTRUCTIONS TO DEBTOR</u>

PER 4  
DEPUTY CLERK

YOU ARE HEREBY NOTIFIED that a Garnishment was issued based upon a judgment entered against you on October 23, 2000. The Garnishment will be served on Barnes & Noble, Inc., Garnishee, as it is believed that the Garnishee may have property of yours in their custody, possession or control.


YOU ARE FURTHER NOTIFIED that, unless within twenty (20) days from the date of receipt of the Answer of the Garnishee, you file a written objection to explain why you think these funds are exempt from execution under state or federal law and request a hearing, a Court Order will be entered attaching the funds and the funds will be applied against the judgment owed the United States of America.

Any objection that you file to contest the garnishment must be filed in the office of the Clerk, United States District Court, Middle District of Pennsylvania, 1st Floor, Wm. J. Nealon Federal Building, Scranton, PA 18503.

The objection must state your reasons for believing that these funds are not subject to attachment by the United States of America. A copy of the objection or other pleadings must also be served on: (1) the United States Attorney for the Middle District of Pennsylvania, P.O. Box 309, Scranton, PA 18501, and (2) Garnishee, Barnes & Noble, Inc., 1400 Old Country Road, Westbury, NY 11590.

YOU MAY WISH TO CONSULT A LAWYER FOR ADVICE AS TO THE MEANING OF THIS NOTICE.

THOMAS A. MARINO  
United States Attorney

  
J. JUSTIN BLEWITT, JR.  
Assistant U.S. Attorney

To: BARNES & NOBLE, INC.  
1400 Old Country Road  
Westbury, NY 11590

**INSTRUCTIONS TO THE GARNISHEE**

Attached is a Writ of Garnishment requesting that you determine whether or not you have in your possession, custody or control any of the property of the debtor listed therein, or any other property of the debtor's. Title 28, United States Code, Section 3205(c)(E) requires that you file a written Answer to this writ, **within 10 days** of your receipt of this writ, with the Court and serve a copy of the Answer upon the debtor and counsel for the United States.

1. **AMOUNT GARNISHED** - The principal amount, rate of interest, starting date of interest and costs are set out in the Writ of Garnishment or Affidavit served upon you. The amount garnished consists of all of these.

2. **AMOUNT WITHHELD** - Under federal law, 15 U.S.C. Section 1673(a), you should withhold each pay period:

- (a) 25% of disposable earnings each pay period, or;
- (b) the amount by which disposable earnings for the week exceeds thirty times the federal minimum hourly wage, whichever is less.

3. **DISPOSABLE EARNINGS** - means that part of earning remaining after deduction of any amount required by law to be withheld (such as the amount of deductions for social security taxes and withholding taxes, but not court ordered alimony and child support payments which must be included in "disposable earnings"). 15 U.S.C. Section 1671(b); First National Bank v. Hasty, 415 F. Supp. 170 (E.D. Mich, 1976), affirmed 573 F.2d 1310 (6th Cir.1977).

4. **DISBURSEMENT OF WITHHELD AMOUNTS.** Each pay period, amounts withheld should be remitted to:

U.S. Attorney's Office  
Middle District of Pennsylvania  
Post Office Box 309  
Scranton, PA 18501

Your check to money order should be made payable to "**U.S. Department of Justice.**" Indicate on each remittance the name of the debtor so that proper credit will be given.

IF YOU FAIL TO ANSWER THIS WRIT OR TO WITHHOLD PROPERTY IN ACCORDANCE WITH THE WRIT, THE COURT MAY MAKE YOU LIABLE FOR THAT AMOUNT OF THE DEBTOR'S NON-EXEMPT PROPERTY WHICH YOU FAILED TO WITHHOLD. ADDITIONALLY, YOU MAY BE HELD LIABLE FOR A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AMERICA IF THE UNITED STATES FILES A PETITION TO THE COURT REQUESTING AN EXPLANATION FOR YOUR FAILURE TO COMPLY WITH THIS WRIT.

If you have any additional questions, please call Carroll Terruso, Paralegal Specialist at (570)-348-2800 or write to: United States Attorney's Office, Financial Litigation Unit, Post Office Box 309, Scranton, Pa 18501.

**NOTICE TO DEFENDANT DEBTOR ON**  
**HOW TO CLAIM EXEMPTIONS**

The attached pre-judgment or post-judgment process has been issued on request of the United States of America.

The law provides that certain property and wages cannot be taken. Such property is said to be exempted. This Notice lists the exemptions under federal law and your state law. There is no exemption solely because you are having difficulty paying your debts.

If you claim an exemption, you should: (i) fill out the claim for exemption form, and (ii) deliver or mail the form to the clerk's office of this court and counsel for the United States. You have a right to a hearing within five business days, or as soon as practicable, from the date you file your claim with the court.

If the United States of America as creditor is asking that your wages be withheld, the method of computing the amount of wages which are exempt from garnishment by law is indicated on the Claim for Exemption Form which is attached. You do not need to file a claim for exemption to receive this exemption, but if you believe the wrong amount is being withheld, you may file a claim for exemption.

On the day of the hearing, you should come to court ready to explain why your property is exempted, and you should bring any documents which may help you prove your case. If you do not come to court at the designated time and prove that your property is exempt, you may lose some of your rights.

It may be helpful to you to seek the advice of an attorney in this matter.

**CLAIM FOR EXEMPTION FORM**  
**MAJOR EXEMPTIONS UNDER FEDERAL LAW**

I claim that the exemption(s) from garnishment which are checked below apply in this case:

- ☐ 1. Social Security benefits and Supplemental Security income (42 U.S.C. § 407).
- ☐ 2. Veterans' benefits (38 U.S.C. § 3101).
- ☐ 2a. Members of armed services (10 U.S.C. § 1440, 38 U.S.C. § 562).
- ☐ 3. Federal civil service retirement benefits (5 U.S.C. § 8346 and 22 U.S.C. § 4060(c)).
- ☐ 4. Annuities to survivors of federal judges (28 U.S.C. § 376(n)).
- ☐ 5. Longshoremen and Harborworkers Compensation Act (33 U.S.C. § 916).
- ☐ 6. Black lung benefits (30 U.S.C. §§ 931(b)(2)(F) and 932(a)).
- ☐ 6a. Seaman's, master's or fisherman's wages, except for child support or spousal support and maintenance (46 U.S.C.A. §§ 1108-1109(a-c)).

Exemptions listed under 1 through 6 above may not be applicable in child support and alimony cases (42 U.S.C. § 659).

- ☐ 6b. Railroad retirement, pension, unemployment benefits (45 U.S.C. §§ 231(m), 352(e)).
- ☐ 7. Bankruptcy Code (Title 11, United States Code) which generally provides exemptions for:
  - (a) ☐ \$17,425 in equity in a residence.
  - (b) ☐ \$2,775 in equity in a motor vehicle.
  - (c) ☐ \$1,150 in jewelry.
  - (d) ☐ \$9,300 in personal property.  
(However, no single item worth more than \$450 can be claimed as exempt)
  - (e) ☐ Property totaling up to \$925 in value, plus up to \$8,725 of any unused amount of the exemption provided in number 11(a) above.
  - (f) ☐ \$1,750 in equity in any implements, professional books, or tools of your trade your dependent's trade.
  - (g) ☐ Any unmaturred life insurance contract you own, other than credit life insurance.
  - (h) ☐ The aggregate value, up to \$9,300.00, of any accrued dividend or interest under, or loan value of, any unmaturred life insurance contract you own, but only if you are the insured or you are a dependant of the insured.

- (i)\_\_\_ Professionally prescribed health aids for you or your dependants.
- (j)\_\_\_ Unemployment compensation benefits, local public assistance benefits, disability benefits, illness benefits; and alimony, support, and separate maintenance, to the extent these items are reasonably necessary for your support or the support of your dependants.
- (k)\_\_\_ A payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for your support or the support of your dependants, subject to the limitations set forth at Title 11 United States Code Section 522(d)(10)(E)(i)-(iii).
- (l)\_\_\_ Your right to receive, or property that is traceable to,
- an award under a crime victim's reparation law;
  - a payment on account of the wrongful death of an individual of whom you were a dependant, but only to the extent reasonably necessary for your support or the support of your dependants;
  - a payment under a life insurance contract that insured an individual of whom you were a dependant on the date of the insured's death, but only to the extent reasonably necessary for your support or the support of your dependants;
  - a payment, not to exceed \$17,425, on account of personal bodily injury suffered by you or by an individual of whom you are a dependant; however, payment for pain and suffering or payment to compensate actual pecuniary loss are not exempt under this paragraph;
  - a payment in compensation of loss of your future earnings or the future earnings of an individual of whom you are, or were, a dependant, but only to the extent reasonably necessary for your support or the support of your dependants.

\_\_\_ 8. Compensation for war risk hazards (42 U.S.C. § 1717).

**MAJOR EXEMPTIONS UNDER STATE LAW**

**NOTE:** The law of the state where you have been domiciled for at least 180 days governs your rights.

**NOTE:** If you have selected the Bankruptcy Code exemptions (line 7 above), you may not also claim the state law exemptions listed below.

**Fair market value**

- \_\_\_ 9. Personal Property \_\_\_  
(42 Pa. Cons. Stat. Ann.  
§§ 8123, 8124, 8125 and 8127).
- \_\_\_ 10. Partnership Property (15 Pa. Cons. \_\_\_  
Stat. Ann. §§8341,8342



- |     |   |     |
|-----|---|-----|
| ___ | 11. Workers' Compensation (42 Pa. Cons. Stat. An. §8124 (c)(2))   | ___ |
| ___ | 12. Unemployment Compensation (43 Pa. Stat. Ann., §863)   | ___ |
| ___ | 13. Veterans' Benefits (51 Pa. Cons. Stat. Ann. §§20012 and 20098)  | ___ |
| ___ | 14. Insurance (42 Pa. Cons. Stat. Ann. §8124 (c))   | ___ |
| ___ | 15. Pensions and Retirement Benefits (42 Pa. Cons. Stat. Ann. §8124; 71 Pa. Cons. Stat. Ann. §5953 and provisions cited in note thereafter) | ___ |
| ___ | 16. Crime Victims' Compensation (71 Pa. Cons. Stat. Ann. §180-7.10)   | ___ |
| ___ | 17. Fraternal Benefit Society Benefits (40 Pa. Stat. Ann., §1141-305;   | ___ |

The statements made in this claim of settlement to exemptions and request for hearing as to exemption entitlement and fair market value of the property designated are made and declared under penalty of perjury that they are true and correct. I hereby request a court hearing to decide the validity of my claims. Notice of the hearing should be given to me by mail at:

(\_\_\_\_\_ ) or telephonically at (\_\_\_\_\_ )  
Address Phone no.

\_\_\_\_\_  
Signature of debtor

\_\_\_\_\_  
Date



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DONNA WENCH,	)	1:CV-00-1414
Defendant,	)	
	)	(Judge Caldwell)
and	)	
	)	
BARNES & NOBLE, INC.,	)	
Garnishee.	)	

GARNISHEE ORDER

A Writ of Garnishment, directed to Garnishee, has been duly issued and served upon the Garnishee. Pursuant to the Writ of Garnishment, the Garnishee filed an Answer on \_\_\_\_\_, 2003, stating that at the time of the service of the Writ he had in his possession or under his control personal property belonging to and due defendant, and that Garnishee was indebted to defendant.

On \_\_\_\_\_, 2003, the defendant was notified of her right to a hearing and has not requested a hearing to determine exempt property.

IT IS ORDERED that Garnishee pay to the United States the sum of 25% of defendant's monthly non-exempt net disposable earnings and continue said payments until the debt to the plaintiff is paid in full or until the Garnishee no longer has custody, possession or control of any property belonging to the debtor or until further Order of this court.

IT IS FURTHER ORDERED that the Garnishee make the checks payable to the U.S. DEPARTMENT OF JUSTICE and mail the checks to the following address:

United States Attorney  
Attn: Financial Litigation Unit  
P.O. Box 309  
Scranton, PA 18501

DATED: \_\_\_\_\_.

MARY E. D'ANDREA  
Clerk, U. S. District Court

By: \_\_\_\_\_  
Deputy Clerk

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DONNA WENCH,	)	1:CV-00-1414
Defendant,	)	
	)	
and	)	
	)	
BARNES & NOBLE, INC.,	)	
Garnishee	)	

ORDER OF GARNISHMENT

This matter came on for hearing on the \_\_\_\_\_ day of  
\_\_\_\_\_ 2003, and the Court made the following findings:

A Writ of Garnishment, directed to Garnishee, was duly issued and served upon the Garnishee. Pursuant to the Writ of Garnishment, the Garnishee filed an Answer to the writ stating that at the time of the service of the writ he had in his possession, custody or under his control, personal property belonging to and due defendant and that garnishee was indebted to defendant.

The defendant requested a hearing to determine exempt property. The hearing was held on \_\_\_\_\_, 2003, and after having given due consideration to the arguments of the parties,

IT IS ORDERED that Garnishee pay to the United States the sum of \_\_\_\_\_ of defendant's monthly non-exempt disposable earnings and continue said payments until the debt to the plaintiff is paid in full or until the Garnishee no longer has custody, possession or control of any property belonging to the debtor or until further Order of this court.

IT IS FURTHER ORDERED that the Garnishee make the checks payable to the U.S. DEPARTMENT OF JUSTICE and mail the checks to the following address:

United States Attorney  
Attn: Financial Litigation Unit  
P.O. Box 309  
Scranton, PA 18501

DATE:

\_\_\_\_\_  
WILLIAM W. CALDWELL, JUDGE  
U.S. District Court

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, )  
Plaintiff, )  
v. )  
DONNA WENCH, ) 1:CV-00-1414  
Defendant, ) (Judge Caldwell)  
and )  
BARNES & NOBLE INC., )  
Garnishee. ) ANSWER OF THE GARNISHEE

\_\_\_\_\_, being duly sworn, deposes and says:  
(Affiant)

If Garnishee is an Individual:

That he/she is Garnishee herein doing business in the name of

\_\_\_\_\_  
(State full name and address of business)

If Garnishee is a Partnership:

That he/she is a member of a partnership composed of which Garnishee is a partner.

If Garnishee is a Corporation:

That he/she is the (Official Title) \_\_\_\_\_ of Garnishee,  
\_\_\_\_\_ a corporation, organized under the laws of the State of

On \_\_\_\_\_, 2003, Garnishee was served with the Writ of Continuing Garnishment. For the pay period in effect on that date:

Yes No

- \_\_\_\_ 1. Defendant was in my/our employ.
- \_\_\_\_ 2. Pay period is \_\_\_\_\_ weekly, \_\_\_\_\_ bi-weekly  
\_\_\_\_\_ semi-monthly, \_\_\_\_\_ monthly.

\_\_\_\_ Enter date present pay period began.  
(Present means the pay period in which  
this order and notice of garnishment were  
served)

\_\_\_\_ Enter date above pay period ends.

3. Enter amount of net wages. Calculate below:

(a) Gross Pay	\$ _____
(b) Federal income tax	\$ _____
(c) F.I.C.A. income tax	\$ _____
(d) State income tax	\$ _____
Total of tax withholdings	\$ _____
Net Wages	\$ _____
(a less total of b,c,d)	

4. Have there been previous garnishments in effect?  
If the answers is yes, describe below.

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5. The Garnishee has custody, control or possession of the following property (non-earnings), in which the Debtor maintains an interest, as described below:

	<u>Description of Property</u>	<u>Approximate Value</u>	<u>Description of Debtor's Interest in Property</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____

Garnishee anticipates owing to the judgment-debtor in the future, the following amounts (wages):

	<u>Amount</u>	<u>Estimate date or Period Due</u>
1.	\$ _____	_____
2.	\$ _____	_____
3.	\$ _____	_____
4.	\$ _____	_____

(Check the applicable line below if you deny that you hold property subject to this order of garnishment.)

\_\_\_\_\_ [The Garnishee makes the following claim of exemption on the part of Defendant:]

\_\_\_\_\_ [Or has the following objections, defenses, or set-offs to Plaintiff's right to apply Garnishee's indebtedness to Defendant upon Plaintiff's claim:]

\_\_\_\_\_ [The Garnishee was then in no manner and upon no account indebted or under liability to the Defendant, and that the Garnishee did not have in his/her possession or control any property belonging to the Defendant, or in which the Garnishee has an interest; and is in no manner liable as Garnishee in this action.]

The Garnishee mailed a copy of this answer by first-class mail to (1) the Debtor, \_\_\_\_\_ at \_\_\_\_\_ and to (2) J. JUSTIN BLEWITT, JR., Assistant U.S. Attorney, P.O. Box 309, Scranton, Pa 18501.

\_\_\_\_\_  
Garnishee

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public  
(Seal)

My Commission expires: \_\_\_\_\_

**ATTACHMENT TO ANSWER OF GARNISHEE**

The Original Answer must be mailed to:

Clerk, United States District Court  
1st Floor, Wm. J. Nealon Federal Building  
Scranton, PA 18501

and a copy of this Answer to:

THOMAS A. MARINO  
United States Attorney  
J. JUSTIN BLEWITT, JR.  
Assistant U.S. Attorney  
P.O. Box 309  
Scranton, Pa 18501  
Attention: Financial Litigation Unit